

Public Servants Disclosure Protection Tribunal Canada

2012-13

Departmental Performance Report

The Honourable Shelly Glover, P.C., M.P.
Minister of Canadian Heritage and Official Languages

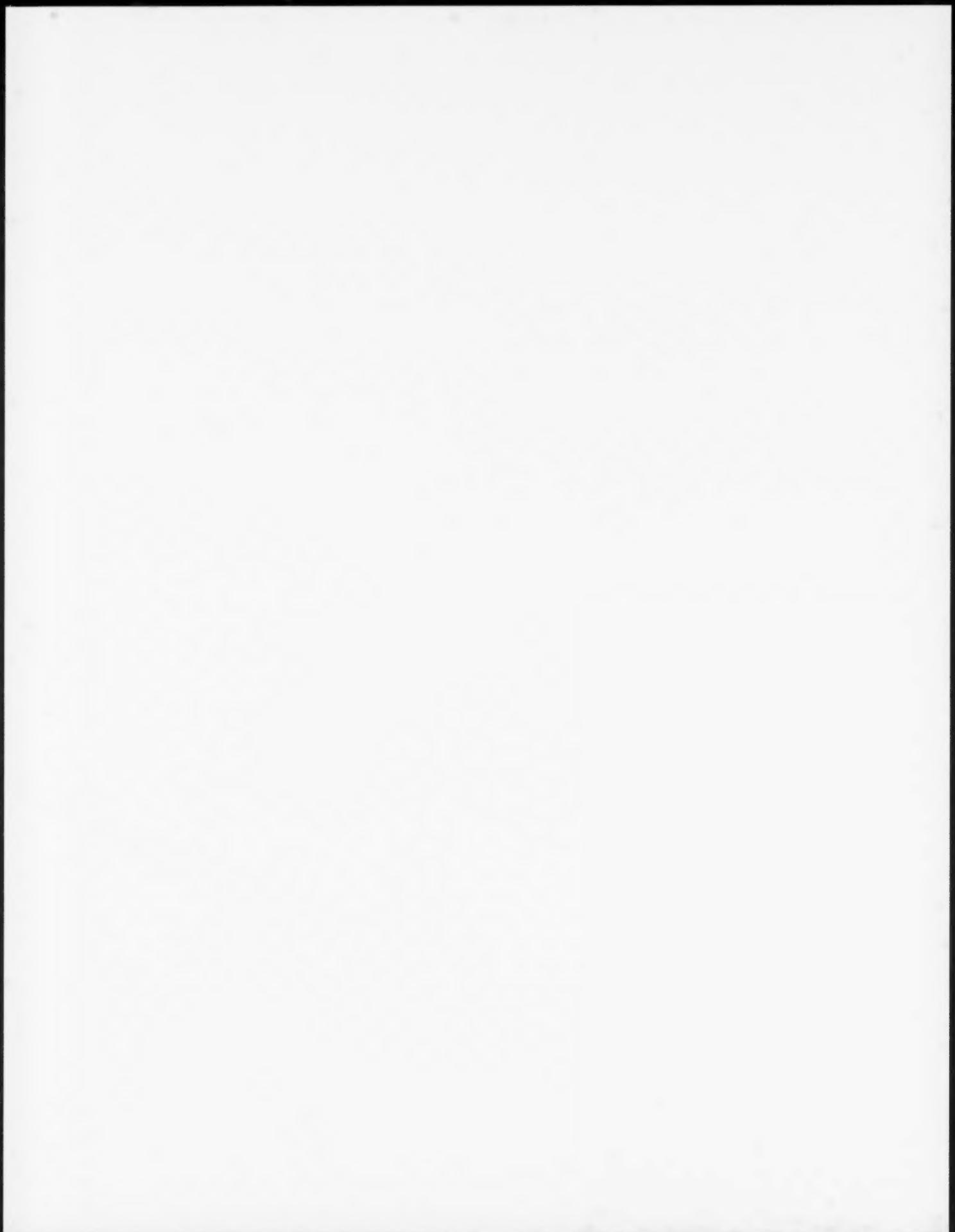
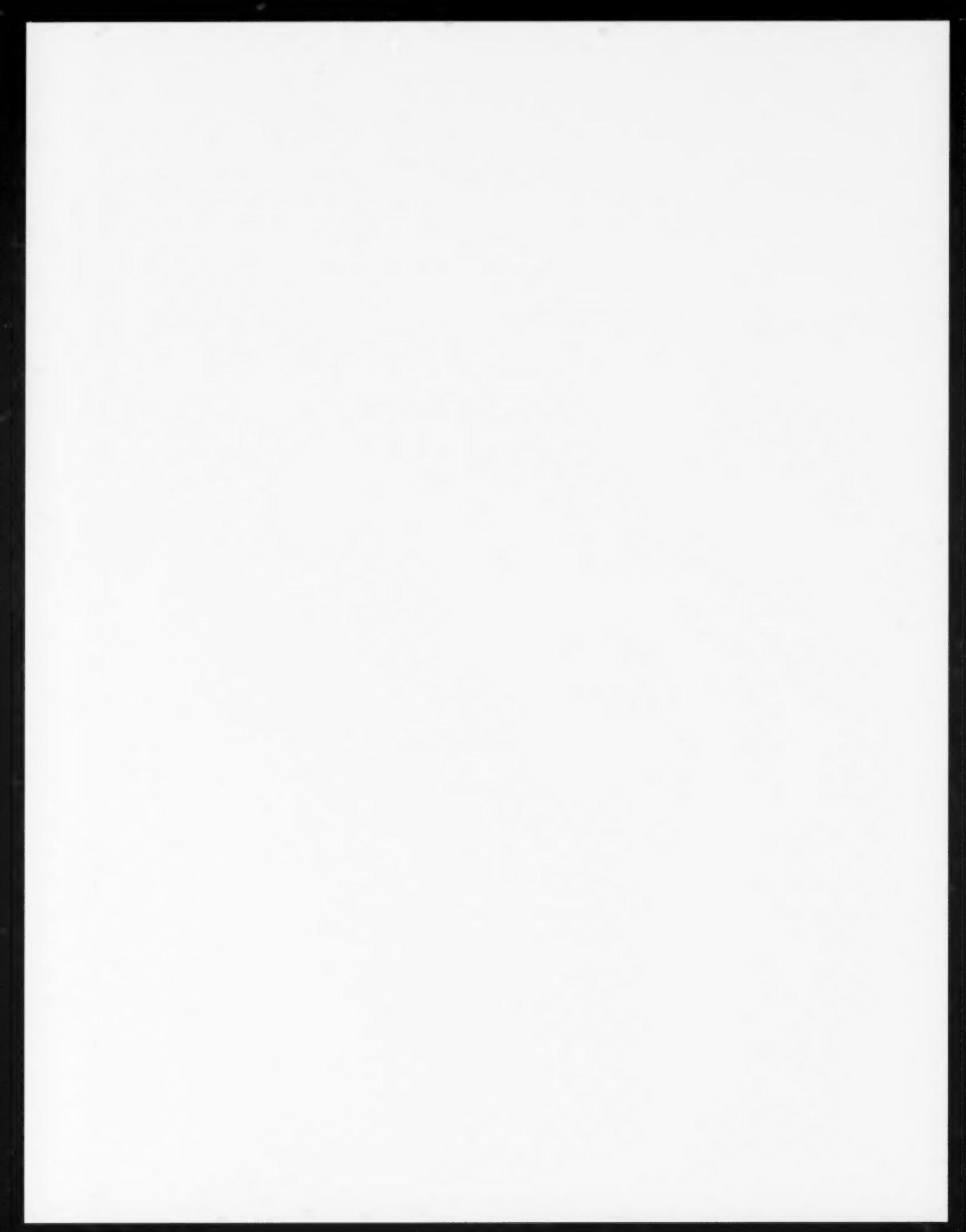


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Registrar's Message

I am pleased to present the 2012-13 Departmental Performance Report for the Registry of the Public Servants Disclosure Protection Tribunal.

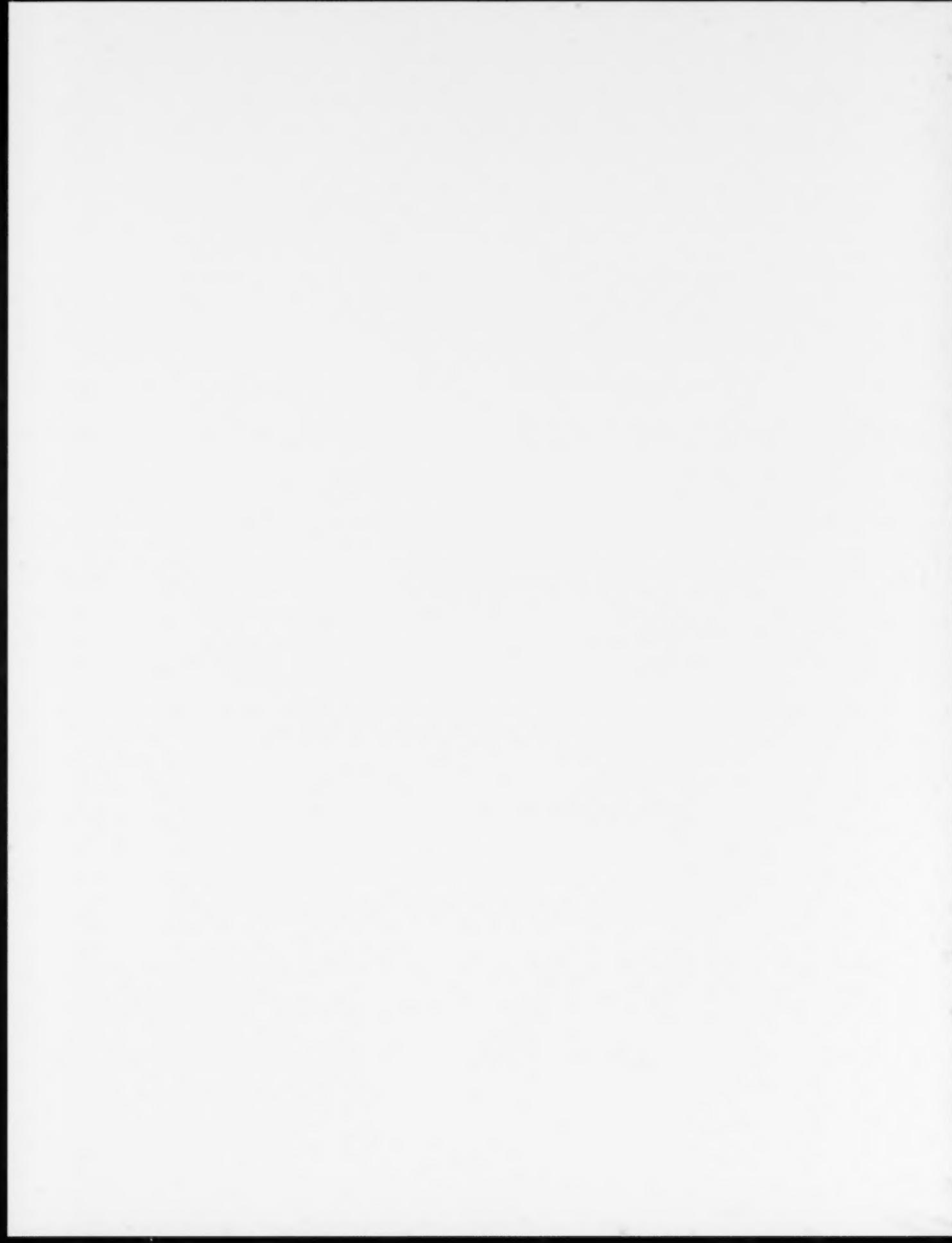
I joined the Registry in March 2013 and I would like to acknowledge the efforts of Lisanne Lacroix, who was the Registrar and Deputy Head since the creation of the Registry in 2007, and worked with staff and Tribunal members to build a solid foundation on which I intend to build.

Following the referral of three cases by the Integrity Commissioner during the 2011-12 fiscal year, this year the Tribunal saw the conclusion of two cases, one through a settlement by the parties' representatives and the other through mediation. One additional case remains in abeyance. As the cases progressed, the Tribunal implemented a number of tools and practices that will be a useful basis for future cases. No new cases were referred to the Tribunal in 2012-13.

The Registry has developed and posted several tools in the Resource Centre of our website including a guide for self-represented parties, and an explanatory paper on how a complaint comes before the Tribunal. Other postings included articles on disclosure and reprisal, and a comparison of the *Public Servants Disclosure Protection Act* and the *Canadian Human Rights Act*. The Registry has also developed policies with respect to openness and privacy and the use of joint books of documents for the purposes of disclosure.

This year, the Registry spent 88.0% of its budget allocation. Salaries and employee benefits accounted for 71.7% of spending.

Stuart Campbell
Acting Registrar and Deputy Head
Registry of the Public Servants Disclosure Protection Tribunal



Section I: Organizational Overview

Raison d'être

The Tribunal was established to protect public servants who disclose wrongdoing from reprisals.

Responsibilities

The Tribunal is an independent quasi-judicial body responsible for dealing with reprisal complaints referred by the Public Sector Integrity Commissioner. The Registry provides administrative and legal services to the Tribunal.

Strategic Outcome and Program Alignment Architecture

Public Servants Disclosure Protection Tribunal	
Strategic Outcome: Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.	
Reprisal Hearings Program	
Internal Services	The Registry of the Public Servants Disclosure Protection Tribunal has an exemption from reporting separately on its Internal Services.

Organizational Priorities

Priority	Type	Strategic Outcome
Continue to provide high quality service and assistance to parties.	Previously committed	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.
Summary of Progress		
<ul style="list-style-type: none"> The Registry of the Public Servants Disclosure Protection Tribunal (Registry) developed new tools and resources for parties and their representatives, which are now posted on the Registry website. These tools include: Representing Yourself Before the Tribunal, the Basics of Whistleblowing and Reprisal; a Statement on Openness and Privacy; a Statement on Joint Book of Documents; an explanatory paper on How a Reprisal Complaint Comes Before the Tribunal; and a comparison between the <i>Public Servants Disclosure Protection Act</i> and the <i>Canadian Human Rights Act</i>. The Registry received favourable response from stakeholders regarding its preparation of a joint statement of facts for one of the cases. This has been labelled a best practice and will be applied in future cases as appropriate. Given that two of the three cases before the Tribunal this year were settled prior to a hearing taking place and that no new cases were received in the fiscal year, we were unable to properly evaluate parties' level of satisfaction with Registry Services. 		

Priority	Type	Strategic Outcome
Ensure that cases referred to the Tribunal are managed in an efficient and effective manner.	New priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.
Summary of Progress		
<p>Engaged members of the Client Consultation Committee (CCC) in discussions on the Tribunal's processes, practices, policies and rules and modified them as required:</p> <ul style="list-style-type: none"> A CCC meeting was held on June 21, 2012. A sub-committee of the CCC on Alternative Dispute Resolution (ADR) was created and met in September 2012. A discussion paper entitled "Roundtable Discussion on ADR" as well as a statement on joint book of documents were created in consultation with the CCC. A Statement on ADR was drafted in collaboration with the members of the sub-committee on ADR. 		

Priority	Type	Strategic Outcome
Ensure that cases referred to the Tribunal are dealt with as informally and expeditiously as possible.	New priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Summary of Progress

Reduced the time and expense associated with cases by implementing alternative dispute resolution when appropriate:

- A full-day session on alternative dispute resolution was held for Tribunal members and the CCC members on June 21, 2012.
- The Tribunal explored the merits of alternative dispute resolution and drafted a statement in consultation with the CCC.
- In one case, the parties settled their issues during a mediation conducted by a Tribunal member.

Priority	Type	Strategic Outcome
Participate in the 5-year review of the <i>Public Servants Disclosure Protection Act</i> .	Modified priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Summary of Progress

- Some provisions within the Act that could be improved were identified and a legal opinion was prepared for the Tribunal members.
- Pending the initiation of the 5-year review, a discussion paper has been drafted.

Priority	Type	Strategic Outcome
Develop and implement an information management program.	New priority	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Summary of Progress

- The Registry obtained assistance from Library and Archives Canada staff to develop an action plan for the implementation of its information management program and ensure its compliance with the Directive on Recordkeeping.
- Work has been initiated to identify a revised classification structure for the Tribunal and the Registry's document sources.
- Work towards this priority will continue during 2013-14.

Priority	Type	Strategic Outcome
Continue to ensure that public funds are managed with prudence and probity, and that resources are used efficiently and economically to achieve objectives.	Previously committed	Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.
Summary of Progress		
<ul style="list-style-type: none"> The Registry continued to manage its financial and human resources efficiently and worked with other federal agencies to share facilities and services, including the sharing of employees with experience in the corporate functions of small agencies. 		

Risk Analysis

Risk	Risk Response Strategy	Link to Program Alignment Architecture	Link to Organizational Priorities
<p>It continued to be difficult to estimate the number of cases the Tribunal can expect to receive on an annual basis.</p> <p>Furthermore, the workload associated with cases tends to be quite heavy, meaning that concurrent cases could exceed capacity, particularly the specialized legal expertise required.</p> <p>The Registry had yet to receive a sufficient volume of cases to be able to assess how much a typical hearing would cost, how often the Tribunal would sit as a panel, or how many cases would be heard within and outside the National Capital Region.</p>	<ul style="list-style-type: none"> As identified in the 2012-13 RPP, the Registry has mitigated this risk by using fixed term mechanisms such as secondments to fill vacant positions. Memoranda of understanding have also been negotiated with other administrative tribunals to access services at a reduced cost or free of charge. Options for meeting the variable demand for legal expertise will be explored in 2013-14. 	Reprisal Hearings Program	The unpredictable nature of the Tribunal's caseload made it difficult to manage human and financial resources.

Summary of Performance

Financial Resources – Total Departmental (\$ thousands)

Total Budgetary Expenditures (Main Estimates) 2012–13	Planned Spending 2012–13	Total Authorities (available for use) 2012–13	Actual Spending (authorities used) 2012–13	Difference (Planned vs. Actual Spending)
1,834.1	1,834.1	1,885.3	1,659.7	225.6

Human Resources (Full-Time Equivalents— FTEs)

Planned 2012–13	Actual 2012–13	Difference 2012–13
12	8	-4

Total Performance Summary Table (\$ thousands)

Strategic Outcome: Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals

Strategic Outcome, Program and Internal Services ¹	Total Budgetary Expenditures (Main Estimates 2012-13)	Planned Spending			Total Authorities (available for use) 2012-13	Actual Spending (authorities used)			Alignment to Government of Canada Outcomes
		2012-13	2013-14	2014-15		2012-13 ²	2011-12	2010-11	
Reprisal Hearings Program	1,834.1	1,834.1	1,834.4	1,835.1	1,885.3	1,659.7	1,686.7	940.3	<u>Well-managed and efficient government operations¹</u>
Total	1,834.1	1,834.1	1,834.4	1,835.1	1,885.3	1,659.7	1,686.7	940.3	

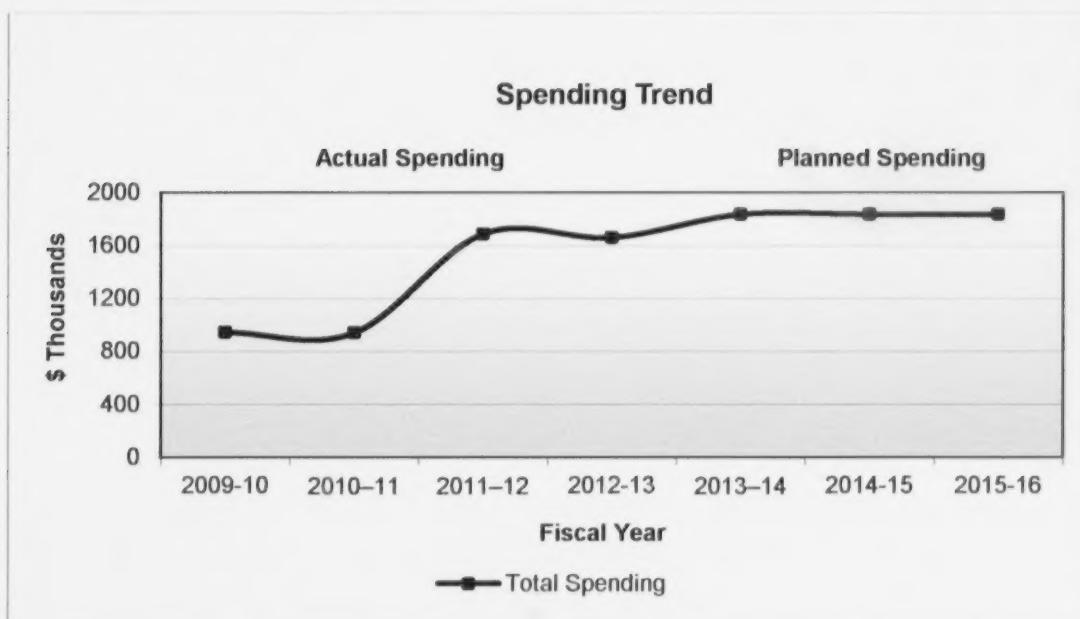
The Tribunal received its first cases during 2011-12 which explains the large increase in expenditures in 2011-12. The workload remained fairly stable in 2011-12 and 2012-13. Unless several cases are referred to the Tribunal in 2013-14 and 2014-15, the Registry anticipates a small reduction in its actual expenditures in the next two fiscal years as a result of the introduction of saving measures.

¹ The Registry has only one strategic outcome and program. It has obtained an exemption from reporting on its internal services separately.

² In order to align with departmental authorities by Program, as presented in Vol. II of the Public Accounts, services provided without charge amounts for employer's contribution to employee insurance plans, such as the Public Service Health Care Plan and the Public Service Dental Care Plan provided by the Treasury Board of Canada Secretariat, accommodations provided by Public Works and Government Services Canada, are not to be included in this figure. This information is presented in Departmental Financial Statements only.

Expenditure Profile

Departmental Spending Trend



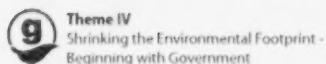
Estimates by Vote

For information on the Registry of the Public Servants Disclosure Protection Tribunal's organizational Votes and/or statutory expenditures, please see the [Public Accounts of Canada 2013 \(Volume II\)](#)ⁱⁱ. An electronic version of the Public Accounts 2013 is available on the Public Works and Government Services Canada website.

Contribution to the Federal Sustainable Development Strategy (FSDS)

The Federal Sustainable Development Strategy (FSDS) outlines the Government of Canada's commitment to improving the transparency of environmental decision-making by articulating its key strategic environmental goals and targets.

The Registry of the Public Servants Disclosure Protection Tribunal ensures that consideration of these outcomes is an integral part of its decision-making processes. The department contributes to the following FSDS 2010–2013 theme as denoted by the visual identifier and the associated program below.



Internal Services:

During 2012–13 the Registry of the Public Servants Disclosure Protection Tribunal considered the environmental effects of initiatives subject to the Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposalsⁱⁱⁱ. Through the strategic environmental assessment (SEA) process, departmental initiatives were found to have positive environmental effects on the 2010–2013 FSDS goals and targets in Theme IV – Shrinking the Environmental Footprint – Beginning with Government. For additional details on activities to support sustainable development and SEA, please see Section II of the DPR and the Registry of the Public Servants Disclosure Protection Tribunal website^{iv}.

Section II: Analysis of Program by Strategic Outcome

Strategic Outcome

The Tribunal pursues one strategic outcome: Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Program Activity: Reprisal Hearings Program

The Reprisal Hearings Program is the only program activity that contributes to this strategic outcome. The Registry of the Public Servants Disclosure Protection Tribunal assists the Tribunal in fulfilling its mandate by supporting the effective management of the Tribunal's hearing process. This includes receiving documents, processing cases, maintaining Tribunal records, providing logistical, legal and administrative support, organizing training sessions for Tribunal members and informing clients of Tribunal procedures and directives.

Strategic Outcome: Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.		
Performance Indicator	Targets	Actual Results
Number of decisions or orders issued within 250 calendar days from the start of a proceeding.	90% of proceedings are completed within 250 calendar days.	See Performance Analysis and Lessons Learned below.
Degree of client satisfaction with respect to services offered by the Registry.	80% of clients are satisfied with services offered by the Registry.	It is too early to assess client satisfaction given the small number of cases referred to the Tribunal.

Financial Resources – For the Reprisal Hearings Program (\$ thousands)

Total Budgetary Expenditures (Main Estimates) 2012-13	Planned Spending 2012-13	Total Authorities (available for use) 2012-13	Actual Spending (authorities used) 2012-13	Difference 2012-13
1,834.1	1,834.1	1,885.3	1,659.7	225.6

Human Resources (full-time equivalents - FTEs) – For the Reprisal Hearings Program

Planned 2012–13	Actual 2012–13	Difference 2012–13
12	8	4

Performance Results – For the Reprisal Hearings Program

Two indicators have been established to measure the Registry's performance: the number of decisions and/or orders issued within 250 calendar days from the start of a proceeding; and the degree to which clients are satisfied with respect to services offered by the Registry.

Expected Results	Performance Indicators	Targets	Actual Results
Effective management of the Tribunal's proceedings.	Number of decisions or orders issued within 250 calendar days from the start of a proceeding.	90% of proceedings are completed within 250 calendar days.	See Performance Analysis and Lessons Learned below.
	Degree of client satisfaction with respect to services offered by the Registry.	80% of clients are satisfied with services offered by the Registry.	It is too early to assess client satisfaction given the small number of cases referred to the Tribunal.

Internal Services

The Registry of the Public Servants Disclosure Protection Tribunal has an exemption from reporting separately on its Internal Services.

Performance Analysis and Lessons Learned

The last case referred to the Tribunal by the Public Sector Integrity Commissioner was received on March 29, 2012. The hearing for this case was originally scheduled for April 15-19, 2013 and was cancelled at the request of the parties who settled the case between themselves. On March 28, 2013, the Tribunal granted a consent order and summarily dismissed the application.

Further, too few cases were received thus far for the Registry to conduct a meaningful client satisfaction survey.

It has become apparent that there are several factors outside the Tribunal's control that could lengthen a proceeding. The matters referred to the Tribunal can include complex preliminary motions. There are also multiple parties involved and finding a time when all parties and the presiding member are available can be challenging. Tribunal members are full-time judges of the Federal Court and their schedule is set one year in advance. In cases where the members sit as a panel, it is extremely difficult for them to be released from their regular Court duties at the same time.

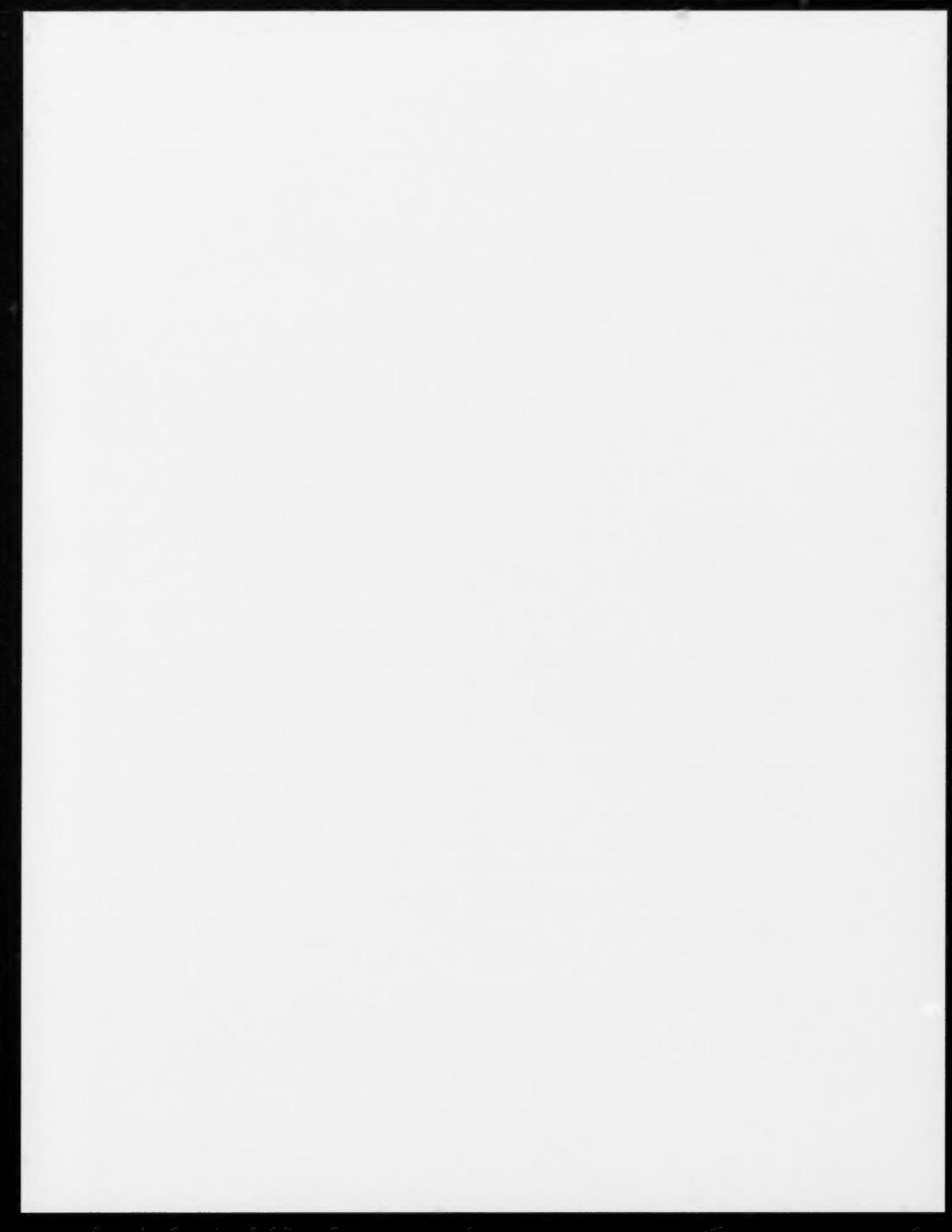
For these reasons, the performance indicators set by the Registry are not appropriate for the Registry and the Tribunal's operations. The Registry is currently reviewing its performance management framework with a view to establish performance indicators, measurements and targets which take into consideration the current environment in which the Tribunal and the Registry operate. The new performance management framework will become effective in fiscal year 2014-15.

Federal Sustainable Development Strategy (FSDS)



The Registry of the Public Servants Disclosure Protection Tribunal is a participant in the Federal targets through the Internal Services Program. The department contributes to the Federal Sustainable Development Strategy (FSDS) and contributes to the Greening Government Operations.

For additional details on the Registry's Greening Government Operations activities please see the [List of Supplementary Information Tables in Section III](#).



Section III: Supplementary Information

Financial Statements Highlights

Condensed Statement of Operations and Departmental Net Financial Position

Registry of the Public Servants Disclosure Protection Tribunal Condensed Statement of Operations and Departmental Net Financial Position (Unaudited) For the Year Ended March 31, 2013 (\$ thousands)					
	2012-13 Planned Results	2012-13 Actual	2011-12 Actual	\$ Change (2012-13 Planned vs. Actual)	\$ Change (2012-13 Actual vs. 2011-12 Actual)
Total expenses	2,250.2	1,765.9	1,564.3	484.3	201.6
Total revenues	-	-	-	-	-
Net cost of operations before government funding and transfers	2,250.2	1,765.9	1,564.3	484.3	201.6
Departmental net financial position	175.2	242.7	195.6	67.5	47.1

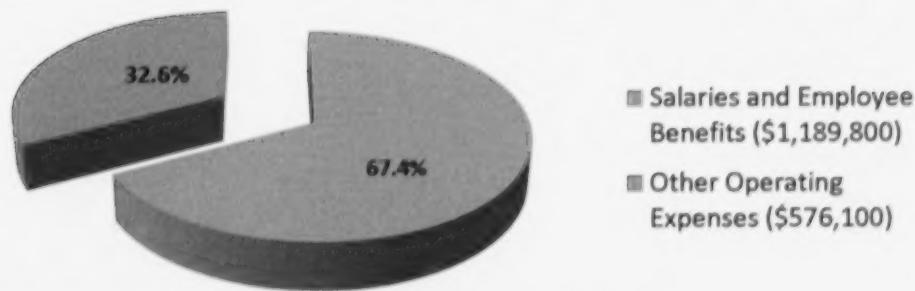
Financial Highlights—Charts and Graphs

Allocation of Cost of Operation by Expense Category

The 2012-13 Condensed Statement of Operations and Departmental Net Financial Position reports \$1,765,885 in total expenses which represents an increase of \$201,600 or 12.9% over 2011-12. Salaries and employee benefits represent 67.4% of operating expenses in 2012-13 (63.2% in 2011-12). Other operating expenses represent 32.6% (36.8% in 2011-12) of total expenses.

The increase in salary expenditures in 2012-13 is mainly due to the staffing of a Senior Legal Advisor position to process the case received in March 2012 and conduct outreach activities as well as the use of short term resources to conduct research projects. The total non-salary expenditures remained the same in 2012-13.

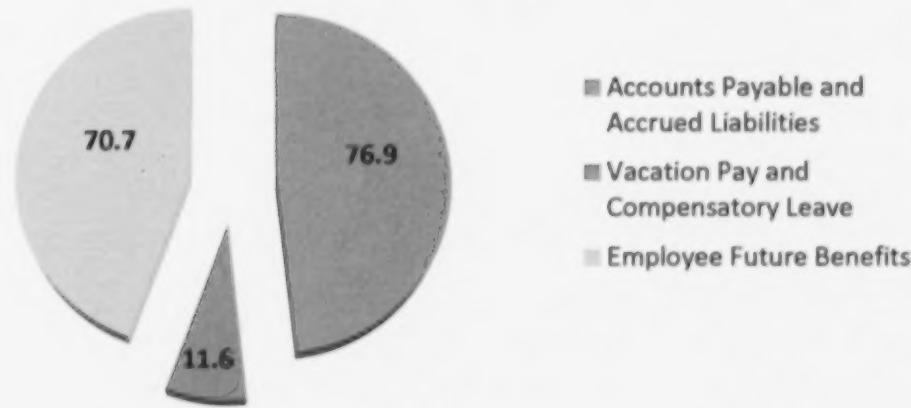
Expenses by Type (percentage)



Condensed Statement of Financial Position

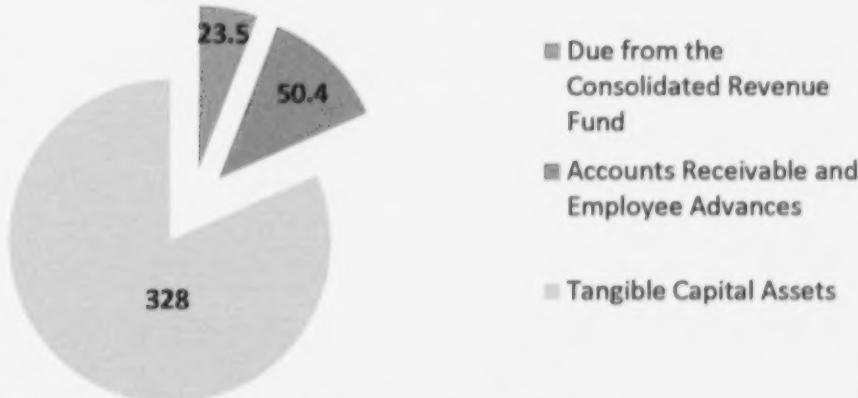
Registry of the Public Servants Disclosure Protection Tribunal Condensed Statement of Financial Position (Unaudited)			
As at March 31, 2013			
	(\$ thousands)		
	2012-13	2011-12	\$ Change
Total net liabilities	159.2	497.3	(338.1)
Total net financial assets	73.9	375.2	(301.3)
Departmental net debt	85.3	122.0	(36.7)
Total non-financial assets	328.0	317.6	10.4
Departmental net financial position	242.7	195.6	47.1

Liabilities by Type (\$ thousands)



Total liabilities were \$159,200 at the end of 2013, a decrease of \$338,100 (68%) over the total liabilities of \$497,300 at the end of 2011-12. Employee Future benefits and Accounts Payable and Accrued Liabilities represent the largest portion of liabilities at \$147,600 (92.7%).

Assets by Type (\$ thousands)



Total assets were \$401,900 at the end of 2012-13, a decrease of \$281,000 (41.1%) over total assets of \$682,900 in 2011-12. Financial Assets (due from Consolidated Revenue Fund and Accounts Receivable and Employee Advances) have decreased by \$301,300 (80.3%) while Non-Financial Assets (Tangible Capital Assets) have increased by \$10,400 (3.3%) compared to 2011-12.

Financial Statements

Financial statements are available on the [website^v](#) of the Public Servants Disclosure Protection Tribunal Canada.

Supplementary Information Tables

All electronic supplementary information tables listed in the 2012-13 Departmental Performance Report can be found on the [Registry of the Public Servants Disclosure Protection website^{vi}](#)

- [Greening Government Operations^{vii}](#)
- [Internal Audits and Evaluations^{viii}](#)

Tax Expenditures and Evaluations Report

The tax system can be used to achieve public policy objectives through the application of special measures such as low tax rates, exemptions, deductions, deferrals and credits. The Department of Finance publishes cost estimates and projections for these measures annually in the [Tax Expenditures and Evaluation^{ix}](#) publication. The tax measures presented in the Tax Expenditures and Evaluations publication are the sole responsibility of the Minister of Finance.

Section IV: Other Items of Interest

Organizational Contact Information

Public Servants Disclosure Protection Tribunal Canada
90 Sparks Street, Suite 540
Ottawa, Ontario K1P 5B4
Telephone: 613-943-8310
Facsimile: 613-943-8325

E-mail: tribunal@psdpt-tpfd.gc.ca

Website: www.psdpt-tpfd.gc.ca

Endnotes

ⁱ Treasury Board of Canada Secretariat: <http://www.tbs-sct.gc.ca/ppg-cpr/descript-cng.aspx>

ⁱⁱ Public Accounts of Canada 2013: <http://www.tpsgc-pwgsc.gc.ca/recgen/cpc-pac/index-cng.html>

ⁱⁱⁱ Canadian Environmental Assessment Agency: http://www.ceaa.gc.ca/default.asp?lang=En&n=B3186435_1

^{iv} Registry of the Public Servants Disclosure Protection Tribunal: <http://www.psdpt-tpfd.gc.ca/ResourcesRessources/DPR-RMR/DPR-RMR-cng.html>

^v Registry of the Public Servants Disclosure Protection Tribunal: <http://www.psdpt-tpfd.gc.ca/ResourcesRessources/DPR-RMR/DPR-RMR-cng.html>

^{vi} Registry of the Public Servants Disclosure Protection Tribunal: <http://www.psdpt-tpfd.gc.ca/ResourcesRessources/DPR-RMR/DPR-RMR-cng.html>

^{vii} Registry of the Public Servants Disclosure Protection Tribunal: <http://www.psdpt-tpfd.gc.ca/ResourcesRessources/DPR-RMR/DPR-RMR-cng.html>

^{viii} Registry of the Public Servants Disclosure Protection Tribunal: <http://www.psdpt-tpfd.gc.ca/ResourcesRessources/DPR-RMR/DPR-RMR-cng.html>

^{ix} Department of Finance Canada: <http://www.fin.gc.ca/purl/taxexp-cng.asp>